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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

YOANDY FERNANDEZ MORALES,

Plaintiff

v.

BEN GUTIERREZ, et al.,

Defendants

Case No.: 2:20-cv-00679-APG-EJY

**Order Accepting Report and
Recommendation and Granting Motion to
Stay**

[ECF Nos. 25, 30]

On December 8, 2021, Magistrate Judge Youchah recommended that some of plaintiff Yoandy Fernandez Morales's claims be dismissed. ECF No. 25. Fernandez Morales did not object. Thus, I am not obligated to conduct a de novo review of the report and recommendation. 28 U.S.C. § 636(b)(1) (requiring district courts to "make a de novo determination of those portions of the report or specified proposed findings to which objection is made"); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) ("the district judge must review the magistrate judge's findings and recommendations de novo *if objection is made*, but not otherwise" (emphasis in original)). Consequently, I accept Judge Youchah's recommendations.

Thereafter, defendant Benedicto Gutierrez moved to temporarily stay the case for thirty days until the Attorney General's Office advises the court whether it will accept service on behalf of defendant Dr. Landsman. ECF No. 30. Fernandez Morales did not oppose this motion. I therefore grant it. *See* LR 7-2(d).

I THEREFORE ORDER that Magistrate Judge Youchah's report and recommendation (ECF No. 25) is accepted. The plaintiffs' Fourteenth Amendment due process claims and claims against the individual defendants in their official capacities seeking money damages are

1 dismissed with prejudice. The plaintiff's Eighth Amendment claim against Grievance
2 Coordinator Drasen and claims regarding his medical diet are dismissed without prejudice.

3 I FURTHER ORDER that defendant Benedicto Gutierrez's motion to stay the case for
4 thirty days (ECF No. 30) is GRANTED. The case is stayed until January 14, 2022 or until the
5 Attorney General's Office advises the court whether it will accept service for Dr. Landsman,
6 whichever occurs first.

7 DATED this 6th day of January, 2022.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE